

REMARKS

Claims 1-2, 4, 5, 7-19, 21 and 23 are pending.

Claims 3, 6, 20 and 22 have been canceled.

Claim 1 has been amended to recite the subject matter of canceled claim 6 and the subject matter of intervening canceled claim 3. Claim 5 has been amended so as not to depend from canceled claim 3. Claims 7-10, 12-14 and 17 have been amended so as not to depend from canceled claim 6.

Claim 18 has been amended to be in independent form. This is not a narrowing amendment to claim 18 and this amendment has not been made for the sake of patentability.

No new matter has been added by way of the above-amendment.

Issues Under 35 USC 112

Claims 1-23 are rejected under 35 U.S.C. 112, 1st paragraph. Applicants respectfully traverse the rejection.

The Examiner has taken the position that the newly added phrase “wherein the non-polymeric organic particles inherently have an intermolecular hydrogen bonding property” adds *new matter* to the disclosure.

In response, Applicants have amended claim 1 by deleting this phrase. In view of the fact that the present invention was in the possession of the present inventors at the instant priority date, withdrawal of the rejection under 35 USC 112, first paragraph is respectfully requested.

Prior Art Based Issues

The following rejections are pending:

- a) Claims 20 and 22 are rejected under 35 U.S.C. 102(e) as anticipated by or in the alternative, under 35 U.S.C. 103(a) as obvious over Scott et al;
- b) Claims 20 and 22 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Small et al;
- c) Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Chapman US Patent No. 4,240,919;
- d) Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as obvious over Chapman for the same reason set forth in the previous Office Action;
- e) Claims 20 and 22 are rejected under the judicially created doctrine of double patenting over claim 8 of Li et al. U.S. Patent No. 6,620,215; and
- f) Claims 20 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Li et al.

In view of the cancellation of claims 20 and 22 and the amendment to claim 1 so that claim 1 now recites the subject matter of claim 6 and intervening claim 3, Applicants respectfully submit that each of Rejections a)-f) has been rendered **moot**.

Request for Entry of this Amendment

Applicants note that claim 6, as originally filed depended from claim 3. Accordingly, the Examiner has already considered claim 1 in its current form. As such, there would be no undue burden on the Examiner to enter and consider this Amendment even though a Final Office Action has been issued.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Garth M. Dahlen, Ph.D., Esq. (Reg. No. 43,575) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

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Respectfully submitted,

By

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